

Chapter 251, P.L. 2005

(Enacted January 4, 2006)

**SENATE COMMITTEE
SUBSTITUTE FOR
SENATE, Nos. 556, 600 and
748**

**STATE OF NEW
JERSEY
211th LEGISLATURE**

ADOPTED JUNE 7, 2004

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SYNOPSIS

Requires insurers that provide outpatient prescription drug benefits and State Health Benefits Program to cover costs of prescription female contraceptives.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Health, Human Services and Senior Citizens Committee.

AN ACT concerning insurance coverage for prescribed contraceptives and supplementing Titles 17, 26 and 52 of the Revised Statutes and Title 17B of the New Jersey Statutes.

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BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. A hospital service corporation that provides hospital or medical expense benefits for expenses incurred in the purchase of outpatient prescription drugs under a contract shall provide coverage under every such contract delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, for expenses incurred in the purchase of prescription female contraceptives. For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

A religious employer may request, and a hospital service corporation shall grant, an exclusion under the contract for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective subscribers and subscribers. The provisions of this section shall not be construed as authorizing a hospital service corporation to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of a subscriber. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

The benefits shall be provided to the same extent as for any other

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outpatient prescription drug under the contract.

This section shall apply to those contracts in which the hospital service corporation has reserved the right to change the premium.

2. A medical service corporation that provides hospital or medical expense benefits for expenses incurred in the purchase of outpatient prescription drugs under a contract shall provide coverage under every such contract delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, for expenses incurred in the purchase of prescription female contraceptives. For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

A religious employer may request, and a medical service corporation shall grant, an exclusion under the contract for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective subscribers and subscribers. The provisions of this section shall not be construed as authorizing a medical service corporation to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of a subscriber. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

The benefits shall be provided to the same extent as for any other

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outpatient prescription drug under the contract.

This section shall apply to those contracts in which the medical service corporation has reserved the right to change the premium.

3. A health service corporation that provides hospital or medical expense benefits for expenses incurred in the purchase of outpatient prescription drugs under a contract shall provide coverage under every such contract delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, for expenses incurred in the purchase of prescription female contraceptives. For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

A religious employer may request, and a health service corporation shall grant, an exclusion under the contract for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective subscribers and subscribers. The provisions of this section shall not be construed as authorizing a health service corporation to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of a subscriber. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

The benefits shall be provided to the same extent as for any other

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outpatient prescription drug under the contract.

This section shall apply to those contracts in which the health service corporation has reserved the right to change the premium.

4. A group health insurer that provides hospital or medical expense benefits for expenses incurred in the purchase of outpatient prescription drugs under a policy shall provide coverage under every such policy delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, for expenses incurred in the purchase of prescription female contraceptives. For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

A religious employer may request, and an insurer shall grant, an exclusion under the policy for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective insureds and insureds. The provisions of this section shall not be construed as authorizing an insurer to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of an insured. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

The benefits shall be provided to the same extent as for any other outpatient prescription drug under the policy.

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This section shall apply to those policies in which the insurer has reserved the right to change the premium.

5. An individual health insurer that provides hospital or medical expense benefits for expenses incurred in the purchase of outpatient prescription drugs under a policy shall provide coverage under every such policy delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, for expenses incurred in the purchase of prescription female contraceptives. For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

A religious employer may request, and an insurer shall grant, an exclusion under the policy for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective insureds and insureds. The provisions of this section shall not be construed as authorizing an insurer to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of an insured. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

The benefits shall be provided to the same extent as for any other outpatient prescription drug under the policy.

This section shall apply to those policies in which the insurer has

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reserved the right to change the premium.

6. A certificate of authority to establish and operate a health maintenance organization in this State shall not be issued or continued on or after the effective date of this act for a health maintenance organization that provides health care services for outpatient prescription drugs under a contract, unless the health maintenance organization also provides health care services for prescription female contraceptives. For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

A religious employer may request, and a health maintenance organization shall grant, an exclusion under the contract for the health care services required by this section if the required health care services conflict with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective enrollees and enrollees. The provisions of this section shall not be construed as authorizing a health maintenance organization to exclude health care services for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of an enrollee. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

The health care services shall be provided to the same extent as for any other outpatient prescription drug under the contract.

The provisions of this section shall apply to those contracts for health care services by health maintenance organizations under which the right to change the schedule of charges for enrollee coverage is reserved.

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7. An individual health benefits plan required pursuant to section 3 of P.L.1992, c.161 (C.17B:27A-4) that provides benefits for expenses incurred in the purchase of outpatient prescription drugs shall provide coverage for expenses incurred in the purchase of prescription female contraceptives. For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

A religious employer may request, and a carrier shall grant, an exclusion under the health benefits plan for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective covered persons and covered persons. The provisions of this section shall not be construed as authorizing a carrier to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of a covered person. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

The benefits shall be provided to the same extent as for any other outpatient prescription drug under the health benefits plan.

This section shall apply to all individual health benefits plans in which the carrier has reserved the right to change the premium.

8. A small employer health benefits plan required pursuant to section

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3 of P.L.1992, c.162 (C.17B:27A-19) that provides benefits for expenses incurred in the purchase of outpatient prescription drugs shall provide coverage for expenses incurred in the purchase of prescription female contraceptives. For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

A religious employer may request, and a carrier shall grant, an exclusion under the health benefits plan for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective covered persons and covered persons. The provisions of this section shall not be construed as authorizing a carrier to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of a covered person. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

The benefits shall be provided to the same extent as for any other outpatient prescription drug under the health benefits plan.

This section shall apply to all small employer health benefits plans in which the carrier has reserved the right to change the premium.

9. A prepaid prescription service organization that provides benefits for expenses incurred in the purchase of outpatient prescription drugs under a contract shall provide coverage under every such contract

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delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, for expenses incurred in the purchase of prescription female contraceptives. For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

A religious employer may request, and a prepaid prescription service organization shall grant, an exclusion under the contract for the coverage required by this section if the required coverage conflicts with the religious employer's bona fide religious beliefs and practices. A religious employer that obtains such an exclusion shall provide written notice thereof to prospective enrollees and enrollees. The provisions of this section shall not be construed as authorizing a prepaid prescription service organization to exclude coverage for prescription drugs that are prescribed for reasons other than contraceptive purposes or for prescription female contraceptives that are necessary to preserve the life or health of an enrollee. For the purposes of this section, "religious employer" means an employer that is a church, convention or association of churches or an elementary or secondary school that is controlled, operated or principally supported by a church or by a convention or association of churches as defined in 26 U.S.C.s.3121(w)(3)(A), and that qualifies as a tax-exempt organization under 26 U.S.C.s.501(c)(3).

The benefits shall be provided to the same extent as for any other outpatient prescription drug under the contract.

This section shall apply to those prepaid prescription contracts in which the prepaid prescription service organization has reserved the right to change the premium.

10. The State Health Benefits Commission shall ensure that every contract purchased by the commission on or after the effective date of

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this act that provides benefits for expenses incurred in the purchase of outpatient prescription drugs shall provide benefits for expenses incurred in the purchase of prescription female contraceptives.

For the purposes of this section, "prescription female contraceptives" means any drug or device used for contraception by a female, which is approved by the federal Food and Drug Administration for that purpose, that can only be purchased in this State with a prescription written by a health care professional licensed or authorized to write prescriptions, and includes, but is not limited to, birth control pills and diaphragms.

11. This act shall take effect on the 180th day after enactment and shall apply to policies or contracts issued or renewed on or after the effective date.